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10/840,121	05/06/2004	Clay von Mueller		7230

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CLAY VON MUELLER  
804 ANACAPA COURT  
SAN DIEGO, CA 92109

EXAMINER

PWU, JEFFREY C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/840,121	<b>Applicant(s)</b> VON MUELLER ET AL.	
	<b>Examiner</b> Jeffrey C. Pwu	<b>Art Unit</b> 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 45-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 45-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 51 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 51 is vague and indefinite because of the limitation “the stored location of the data collection nodes is resolvable to a degree of accuracy to enable identifying the specific location of the data collection nodes within the proximity of the data access point.” It is unclear what is the degree of accuracy in order to enable the identifying of the specific location nodes.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogasawara (U.S. 6,123,259).

Ogasawara teaches claims:

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1. A combination wireless and wired secure token access distributed network system comprising:

a) data token means for storing data, including unique customer identifier data; (“customer ID card”; fig.2)

b) a data collection and transmission node means that has a data memory for storing the location of said data collection and transmission means, for reading and inputting the data token data and extracting the customer identifier data, including location identifier data where said data token data collection and transmission means is in use, and transmitting said data; (5 – “mobile personal shopping terminal”; 15 – “universal product code (UPC) bar code scanner”; col.6, line 25 – “An additional I/O device is provided on the mobile personal shopping terminal 5 in the form of an IC card interface unit 60, configured to read information from and write information to an IC, or smart card. As will be developed in greater detail below, the IC card and card interface unit 60, in combination, provides a suitable means for a customer to transport pertinent data to and from a retail facility and exchange that pertinent data with the facility through use of the mobile personal shopping terminal 5 in accordance with practice of principles of the invention. While referred to as an IC card, the card is a personal memory ~2~card~12~ or data card which looks and feels much like an ordinary credit card. The IC card may be either contact based or contactless. The simplest contact-type card might be a magnetic tape storage stripe affixed in a particular location on its reverse side. Alternatively, a contact or contactless IC card may comprise a microprocessor, an electrically erasable field-programmable read-only memory (EEPROM), a Flash ROM (FROM) and, optionally, circuitry for inductively receiving an RF power signal.”)

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c) a data access point means for receiving said transmitted data from said data collection and transmission means and extracting said unique customer identifier data and data collection and transmission means location identifier data; and (5; fig.8)

(d) network system controller means (20 – “controller unit”) for receiving the data transmitted by said data access point means and informing a user of said network controller means of the customer identifier data and the data collection and transmission means location identifier data; whereby when said network system controller is in use, it allows a user to centrally gather customer identifier data simultaneously with the location of the transmitting data collection and transmission node. (5, 10, 15, 20, 30, 35, 40, 50, 55)

2. The combination wireless and wired secure token access distributed network system according to claim 1, wherein said data token means includes a magnetic stripe card. (“customer ID card” , “smart card”)

3. The combination wireless and wired secure token access distributed network system according to claim 1, wherein said data token means includes a chip card. (“smart card”)

4. The combination wireless and wired secure token access distributed network system according to claim 2, wherein said data collection and transmission node means includes a magnetic card reader having a wireless communications transmitter. (col.5, lines 43-65)

5. The combination wireless and wired secure token access distributed network system according to claim 3, wherein said data collection and transmission node means includes a chip card reader

having a wireless communications transmitter. (50; col.5, lines 43-65)

6. The combination wireless and wired secure token access distributed network system according to claim 1, wherein said one or more data access point means includes a wireless communications capability whereby all said data collection and transmission node means within the broadcast radius of said data access point means is in wireless communications with said data access point means. (col.5, lines 43-65)

7. The combination wireless and wired secure token access distributed network system according to claim 1, wherein said data access point means includes a hard wired communications capability whereby said network system controller means communicates with said data access point means. ("the mobile personal shopping terminal (5 of FIG. 1) either by wireless transmission through the terminal's RF transceiver, through a wired I/O port such as an RS-232 port or by means of a high-density flexible media cartridge which may be inserted into an optional floppy drive unit comprising the terminal's mass data storage unit (30 of FIG. 1). In an alternative implementation, scanned and OCR converted text character data is transferred to the store's core server (50 of FIG. 1) which, in turn, transmits the data to the mobile terminal via the terminal's RF transceiver")

8. The combination wireless and wired secure token access distributed network system according to claim 1, wherein said network system controller means includes encoding means for encoding customer identifier data onto said data token means. ("the mobile personal shopping terminal (5

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of FIG. 1) either by wireless transmission through the terminal's RF transceiver, through a wired I/O port such as an RS-232 port or by means of a high-density flexible media cartridge which may be inserted into an optional floppy drive unit comprising the terminal's mass data storage unit (30 of FIG. 1). In an alternative implementation, scanned and OCR converted text character data is transferred to the store's core server (50 of FIG. 1) which, in turn, transmits the data to the mobile terminal via the terminal's RF transceiver")

9. The combination wireless and wired secure token access distributed network system according to claim 1, wherein said data access point means stores the data from said data collection and transmission means in a format which is available for TCP/IP access. ("The mobile terminal may then transmit the shopping list to the store central computer using the RF communication transceiver. Alternatively, the shopping list is prepared on a customer's home personal computer system and is uploaded to the store's web site through an **Internet connection.**")

10. The combination wireless and wired secure token access distributed network system according to claim 1, wherein said data access point means includes overlapping broadcast radiuses to enable multiple data access points to communicate with multiple data collection and transmission nodes and thereby enabling a built-in system redundancy. (col.5, lines 43-65)

11. The combination wireless and wired secure token access distributed network system according to claim 10, wherein said data access point means including overlapping broadcast radiuses to enable multiple data access points to communicate with multiple data collection and transmission nodes means includes one or more repeater access points in communication with

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said data access points to enable long range data communication between data collection and transmission nodes within and outside the broadcast radius of said data access points. (col.5, lines 43-65)

12. The combination wireless and wired secure token access distributed network system according to claim 1, wherein said network system controller means includes a central network system controller in wired communication with several peripheral network system controllers for the purpose of centrally gathering data transmissions from multiple data access points in communication with multiple data collection and transmission nodes. (col.5, lines 43-65)

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 45-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Livingston et al. (US 2003/0213840).

Livingston et al. teaches claims :

45. (newly added) A system, comprising:



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a data token (24) configured to store data comprising token identifier data; (§[0021])

a data collection node comprising a data memory for storing the location of the data collection node, the data collection node configured to access the token identifier data from the data token, and further configured to send the token identifier and the location of the data collection node to a network system controller, and (15-17)

wherein the network system controller receives the data sent by the data access point and provides the token identifier and location of the data collection node to a user, whereby the network system controller allows the user to centrally gather token identifier data with the location of the data collection node at which the token identifier data was accessed (§[0032])

46. (newly added) The system of claim 45, wherein the data collection node is configured to send the token identifier and the location of the data collection node to a data access point and wherein the data access point is configured to receive the transmitted data from said data collection and transmission node and send the token identifier data and location data to the network system controller. (§[0028]-[0033])

47. (newly added) A system, comprising:

a plurality of data collection nodes disposed at respective locations, wherein each data collection node comprises a data memory for storing its respective location, and each data collection node is configured to access a token identifier from a data token placed in communicative proximity with the data collection node; (15-17)

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a controller in communicative contact with the data collection nodes, and configured to receive the token identifier and the location from a data collection node; and wherein the controller is further configured to communicate the location of a data tokens placed in communicative proximity with a data collection node. (14)

48. (newly added) The system of claim 47, Anther comprising a data access point proximate to the data collection nodes and configured to receive the location and token identifier from the data collection nodes and to transmit the location and token identifier data to the controller. (fig.5; 14-17; title “On-Premises Restaurant Communication System and Method”)

49. (newly added) The system of claim 48, wherein the controller comprises software to poll the data access point for the token identifier and the location data. (61-66)

50. (newly added) The system of claim 48, wherein the data access point is in wireless communication with a data collection node and wired communication with the controller. (57-pager & wired Restaurant communication system)

51. (newly added) The system of claim 48, wherein the stored location of the data collection nodes is resolvable to a degree of accuracy to enable identifying the specific location of the data collection nodes within the proximity of the data access point. (¶[0028]-[0033])

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52. (newly added) The system of claim 48, further comprising a repeater access point proximate a subset of the data collection nodes and configured to receive the location and token identifier data from its respective data collection node or nodes and to transmit the location and token identifier data to the data access point for subsequent communication to the controller. (¶[0028]-[0033])

53. (newly added) The system of claim 47, further comprising a plurality of data access points, each data access point proximate to a subset of the data collection nodes and configured to receive the location and token identifier data from its respective data collection node or nodes and to transmit the location and token identifier data to the controller. (¶[0028]-[0032])

54. (newly added) The system of claim 53, wherein the data access points are configured to store location and token identifier data received from their respective data collection node or nodes, and wherein the controller is configured to poll the data access point to capture the stored data. (¶[0025]-[0033])

55. (newly added) The system of claim 53, wherein the data access points include overlapping communication areas to enable a data access point to communicate with more than one data collection node. (¶[0028]-[0033])

56. (newly added) The system of claim 47, wherein the data token comprises a magnetic stripe card or a chip card. (¶[0024])

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57. (newly added) The system of claim 47, wherein the stored location of the data collection nodes is resolvable to a degree of accuracy to enable distinguishing the location of a data collection node from the other data collections nodes. (§[0028]-[0033])

58. (newly added) A method, comprising:

receiving identifier data from a data token placed in a location in communicative proximity to a data collection node; storing at the data collection node a location of the data collection node; forwarding the identifier data and the location to a central controller to thereby enable location of a data token placed in communicative proximity with a data collection node. (Fig.4, steps 41-54)

59. (newly added) The method of claim 58, wherein the step of forwarding comprises the steps of the data collection node forwarding the identifier data and the location to a data access point, and the data access point forwarding this information to the central controller. (§[0028]-[0033])

60. (newly added) The method of claim 58, further comprising the step of resolving the location of the data token to a degree: of accuracy such that its location at its respective data collection node can be identified as distinct from the locations of the other data collection nodes. (§[0028]-[0033])

***Response to Arguments***

7. Applicant's arguments filed 8/22/06 have been fully considered but they are not persuasive. With respect to claims 1-12, Applicant argues that Ogasawara does not teach "data collection and transmission node means that has a data memory for storing the location of said data collection and transmission means...and transmitting said data". In contrary, discloses such a mobile terminal that has a data memory that read and transmits the scanned data. (see col.8, lines 55-col.9, line 44).

8. Applicant's arguments, with respect to claim 45-60, have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



10/27/06

**JEFFREY PWU**  
**PRIMARY EXAMINER**